

## **TITLE 17. DEPARTMENT OF DEVELOPMENTAL SERVICES**

### **NOTICE OF PROPOSED RULEMAKING**

#### **Special Incident Reporting Procedures**

The Department of Developmental Services (DDS) proposes to amend Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 2 by amending Sections 54302, 54327, 54327.1 and adopting Section 54327.2; Subchapter 4 by amending Section 56002; Subchapter 4.1, by amending Section 56093; and Subchapter 19 by amending Section 58651.

#### **Written Comment Period**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action of DDS. The written comment period closes at 5:00 p.m. on November 27, 2001. Please submit any written comments to the DDS contact persons designated below by 5:00 p.m. on November 27, 2001. Both oral and written comments will be received at the public hearing.

#### **Public Hearing**

One public hearing is scheduled. The public hearing to receive oral and written comments is scheduled for 10:00 a.m. on November 27, 2001. This hearing will be held at 714 P Street, Room 102 (auditorium), Sacramento, California. DDS requests that persons who make oral comments at the public hearing submit a written copy of their testimony at that hearing. The hearing location has wheelchair access.

#### **Authority and Reference**

Authority: Section 11152, Government Code.

Reference: Sections 4434, 4500, 4501, 4502, 4629, 4648, 4648.1 and 4742, Welfare and Institutions Code.

#### **Informative Digest/Policy Statement Overview**

DDS is obligated, pursuant to the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code, Division 4.5, Section 4500, et seq.) to ensure the quality of services and supports provided to consumers. As part of this obligation, DDS implemented special incident reporting regulations in June 1998 for the purpose of establishing a process of oversight and monitoring to protect the health and safety of consumers residing in the community. DDS is proposing amendments to its current special incident reporting procedures that will: clarify and specify what constitutes a reportable special incident; establish an Electronic Data Reporting System that will allow regional centers to submit special incident reports electronically to DDS; establish a regional center Risk Management and Mitigation Committee to oversee the special incident reporting system by monitoring and evaluating the types of incidents being reported and making any necessary recommendations to ensure the health and safety of vulnerable consumers.

Section 54302, subsections (a) (53) and (62) are being deleted because the definitions are obsolete. They have been replaced by new definitions contained in Section 54327.

Section 54327 has been amended to include a definitive list of what constitutes a special incident including those incidents in which a consumer was missing; the death of any consumer; reasonably suspected abuse/exploitation of a consumer; reasonably suspected neglect; a serious injury/accident; any unplanned or unscheduled hospitalization due to certain specified conditions; or the consumer is the victim of specified crimes.

Section 54327.1 has been amended to specify that regional centers will be required to comply with a new special incident reporting process beginning on January 1, 2002; submit their report to DDS within two working days of its receipt of the special incident report from the vendor or long-term health care facility; submit its special incident report utilizing the Electronic Data Reporting System; include identifying information about the consumer and descriptive information about the special incident; include a description of any outcomes/actions taken by any entity involved in the reporting process; and, comply with DDS requests for additional information pertaining to a special incident.

Section 54327.2 is being adopted to require all regional centers to establish a Risk Management, Assessment and Planning Committee (Committee); specifies the responsibilities of the Committee; identifies the regional center employees who are required to be members on the Committee; requires the Committee to develop a Risk Management and Mitigation Plan (Plan) and specifies what shall be included in the Plan; and requires the Committee to meet at least quarterly.

Section 56002 has been amended to delete the references to the definition of serious bodily injury. This is consistent with the deletion of the definition of serious bodily injury in 54302(a)(53).

Section 56093 is being amended to make the abuse and special incident reporting process by family home providers and Family Home Agencies consistent with the special incident reporting process utilized by all vendors and long-term health care facilities. This amendment will delete the list of current reportable incidents and replace it with the updated list used by all vendors and long-term health care facilities. This amendment will delete the requirement that the FHA simultaneously report an incident to the regional center and DDS, which will make the reporting process consistent with the new special incident reporting process used by all vendors and long-term health care facilities.

Section 58651 is being amended to correct an incorrect regulatory section reference.

#### **Small Business Determination:**

DDS has determined that the proposed regulations may affect small business.

#### **Local Mandate Determination:**

DDS has determined that the proposed regulatory actions do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630; 4) other nondiscretionary costs or savings imposed on local agencies; or 5) costs or savings in federal funding to the state.

**Assessment Statement:**

DDS has determined that the proposed regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California.

DDS has made an initial determination that the proposed regulations will not have: 1) a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states; or 2) a significant effect on housing costs.

**Cost Impacts on Representative Private Persons or Businesses**

DDS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Alternatives Considered**

DDS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DDS would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DDS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearings.

**Contact Person**

Comments and inquiries concerning the proposed action may be directed to:

Attention: David Judd, Senior Staff Counsel  
Department of Developmental Services  
Office of Legal Affairs  
1600 Ninth Street, Room 240, MS 2-14  
Sacramento, California 95814  
email: djudd@dds.ca.gov  
Phone: (916) 654-2257  
FAX: (916) 654-1716

If Mr. Judd is unavailable, comments and inquiries concerning the proposed action may be directed to:

Attention: Julia Johnson, Staff Counsel  
Department of Developmental Services  
Office of Regulations  
1600 Ninth Street, Room 240, MS 2-14  
Sacramento, California 95814  
email: jjohnso@dds.ca.gov  
Phone: (916) 651-6958  
FAX: (916) 654-1716

Inquiries regarding the substance of the proposed action may be directed to:

Diana Nicolaou  
email: [dnicolao@dds.ca.gov](mailto:dnicolao@dds.ca.gov)  
Phone: (916) 654-1760

### **Availability of Rulemaking Documents**

DDS has prepared and has copies ready for public review of the exact text of the proposed regulations, an Initial Statement of Reasons for the proposed regulations, and all of the information upon which the proposed regulations are based. Copies of the initial statement of reasons and text of the proposed regulations, along with all other public records, reports, documentation or other material related to the proposed regulations will be contained in the rulemaking file and will be available for inspection and copying throughout the rulemaking process from the contact person at the above address. In addition, the text, Initial Statement of Reasons and other materials for this rulemaking may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov).

### **Availability of Changed or Modified Text**

After the close of the comment period, DDS may adopt the proposed regulations as described in this notice. If DDS makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available for public comment at least 15 days before DDS adopts the regulations as revised. If the text is modified, the text may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Please send requests for copies of any modified regulations to the contact persons named above.

### **Final Statement of Reasons**

When the Final Statement of Reasons is available, it may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Additionally, requests for the Final Statement of Reasons could be made to the contact persons named above.